

DENIAL

RESOLUTION NO. A-_____

1 WHEREAS, D&A Properties, LLC, hereinafter Appellant, is constructing a child
2 daycare building located at 8310 Wendall Way; and

3 WHEREAS, said building contains 8,800 sq. ft. of gross floor area as defined in
4 Lincoln Municipal Code § 27.82.040; and

5 WHEREAS, the Impact Fee Administrator calculated the arterial street impact
6 fees for this use based upon the gross floor area using the arterial street impact fee
7 schedule beginning January 1, 2004 for daycare center (\$2,702 per 1,000 sq. ft.); and

8 WHEREAS, the Appellant filed its notice of appeal appealing the impact fee
9 determination and requesting that the arterial street impact fees be waived or reduced
10 as Appellant's use will be a valuable economic development for the City which will be
11 lost as the cost of paying the impact fees will over-extend the financial abilities of the
12 Appellant and that strict application of the impact fee ordinance's calculations under
13 these circumstances work an unjust and undue burden on the Appellant; and

14 WHEREAS, the City Council finds that the impact fee was correctly calculated
15 and that there are no unusual circumstances of the development which demonstrate
16 that the application of the fee to the development would be unfair or unjust as the
17 requested waiver or reduction based upon economic hardship does not meet any of the
18 stipulations or conditions required for reduction in or exemption from arterial street
19 impact fees.

20 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
21 Lincoln, Nebraska:

1 That the impact fee notice of appeal filed by D&A Properties, LLC on September
2 30, 2004 is hereby denied for the following reasons:

3 1. The impact fee ordinance requires the arterial street impact fee to be
4 calculated based upon the gross floor area of the building.

5 2. Appellant's argument is no different than other users could make.

6 3. The arterial street impact fee schedule is based upon the ITE traffic
7 generation manual. In the manual the most common characterization for uses is based
8 upon gross floor area. The daycare center trip rate has been calculated based upon 61
9 traffic count studies nationwide for daycare center uses and accurately reflects the
10 impact of the Appellant's proposed use.

11 4. The requested exemption does not meet any of the stipulations or
12 conditions required for reduction or exemption from arterial street impact fees.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2004:

Mayor